**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.7690 of 2007

**16.4.2007**

Between:

Chilakalapudi Gram Panchayat, represented by its Sarpanch and another

… Petitioners

AND

The District Collector, Krishna District And others

… Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.7690 of 2007

ORDER:

Chilakalapudi Gram Panchayat and its Sarpanch filed this writ petition seeking a writ of Mandamus directing respondents 1 to 4 to use necessary force for removing unauthorized constructions made by respondents 5 and 6 in the land admeasuring Acs.0.04 and Acs.0.01 situated in Government poramboke land.

It is the case of the petitioners that the Gram Panchayat was given a grant of Rs.10.00 lakhs for construction of drinking water tank under Integrated Novel Development In Rural And Model Municipal Areas (INDIRAMMA) programme. On 08.9.2006, the general body of the Gram Panchayat met and unanimously resolved to construct water tank in Gram Kantham site, which is under unauthorized occupation of respondents 5 and 6. It is alleged that these respondents made structures in the Gram Kantham poramboke land by encroaching upon the land. The petitioners addressed fourth respondent on 14.9.2006 to provide police force to remove the encroachments, in vain. It appears that the Assistant Engineer (P.R.) also addressed a letter on 16.9.2006 to the third respondent to remove the encroachments but the same was not done, though the third respondent inspected the site on 19.9.2006. Therefore, the petitioner addressed a letter to the Revenue Divisional Officer, Machilipatnam (RDO), on 28.9.2006 for necessary cooperation for removing illegal encroachments. It is alleged that on 24.10.2006 the respondents also addressed the District Collector, who by endorsement dated 26.10.2006 directed the Mandal Revenue Officer, Gantasala Mandal (MRO), third respondent herein, to conduct enquiry and take necessary action. In the meanwhile, the Deputy Engineer, RWS, Sub-Division, Avanigadda, sent a communication dated 20.11.2006 to the effect that the work has been awarded to M/s.Sai

Constructions, Vijayawada, and that the site has not been handed over due to which work could not commence. Thereafter, first petitioner again requested fourth respondent to provide necessary police force for removing the encroachments. As there was no response, first petitioner allegedly issued a notice on 10.3.2007 directing respondents 5 and 6 to remove the encroachments within two days under Section 98 of the Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity). These respondents sent a reply on 14.3.2007. After considering the same, the Gram Panchayat sent an order dated 26.3.2007 to the respondents 5 and 6, but encroachments are not removed. Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioners submits that in spite of repeated requests, respondents 1 to 4 have not taken action to remove the encroachments made by respondents 5 and 6 on Gram Kantham site, which is allotted for construction of water tank and, therefore, they failed to discharge their duties.

In effect, the petitioners are seeking direction to Police officer concerned to use force and remove respondents 5 and 6 from the Government land. When the Gram Panchayat has issued notice under Section 98 of the Act to the encroachers of the panchayat land, can such direction be given? The answer should be in the negative. Even an encroacher can be removed only after following the procedure contemplated by law. After the Gram Panchayat has already issued the notice under Section 98 of the Act, it is always open to them to take action in accordance with law. In this writ petition, direction as prayed cannot be issued.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 16, 2007.
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